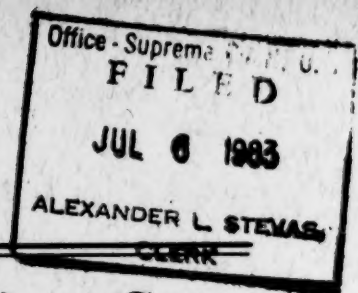


No. 82-1974



In the Supreme Court of the United States

OCTOBER TERM, 1982

CITY OF MACON, PETITIONER

v.

C.D. JOINER, ET AL.

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT**

MEMORANDUM FOR THE UNITED STATES

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MEMORANDUM FOR THE UNITED STATES

Petitioner seeks review of the judgment of the court of appeals holding that the overtime pay provisions of the Fair Labor Standards Act, 29 U.S.C. (& Supp. V) 201 *et seq.*, may constitutionally be applied to the employees of a publicly owned transit system.¹ As petitioner observes (Pet. i; see also Pet. 16-18), the question presented by the petition is the same as that presented in *Donovan v. San Antonio Metropolitan Transit Authority*, appeal docketed, No. 82-1951 (June 1, 1983), and the companion case, *Garcia v. San Antonio Metropolitan Transit Authority*, appeal docketed, No. 82-1913 (May 26, 1983). This case accordingly should

¹This case was decided by the court of appeals together with *Alewine v. City Council*, which presents the same issue. The court of appeals' decision, which bears the latter caption, is reported at 699 F.2d 1060. A petition for rehearing in *Alewine* was denied on May 19, 1983.

be held and disposed of as appropriate in light of the final disposition of the pending appeals in the San Antonio case. Petitioner has not identified any circumstance that makes plenary consideration of this case necessary, given the purely legal dimensions of the common question presented here and in the San Antonio case.

It is therefore respectfully submitted that the petition for a writ of certiorari should be held for appropriate disposition in light of *Donovan v. San Antonio Metropolitan Transit Authority*, No. 82-1951, and *Garcia v. San Antonio Metropolitan Transit Authority*, No. 82-1913.

REX E. LEE
Solicitor General

JULY 1983

DOJ-1983-07

